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TOWN CLERK ☐

TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS Regular Session

Date: MONDAY – MARCH 28, 2005

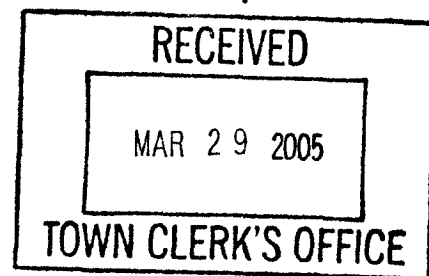
AGENDA

7:30 p.m. – Roll Call

PRELIMINARY MEETINGS:

1. **EDUARDO GUERRERO (05-12)** Request for 5 ft. Rear Yard Setback (300-24) for proposed in-ground pool at 2818 Cherry Tree Way in an R-3 Zone **(77-1-20)**
2. **MILAGROS BELLBER (05-13)** Request for 6 ft. Side Yard Setback and 16 ft. Total Side Yard Setback for existing balcony at 6 Willow Parkway in an R-4 Zone **(38-3-39)**
3. **ALLEN DANTAS (05-14)** Request for 24,604 Minimum Lot Area for proposed Two-Family dwelling on Dean Hill Road in an R-3 Zone **(65-1-50.3)**

Revised 3/29/04





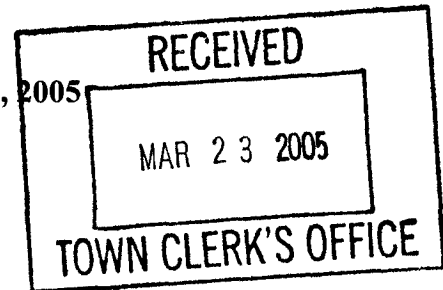
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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
MARCH 28, 2005

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
LEN MCDONALD
MICHAEL REIS
KATHLEEN LOCEY
KIMBERLY GANN

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: STEPHEN RIVERA

REGULAR MEETING

MR. KANE: I'd like to call to order the March 28, 2005 meeting of the Zoning Board of Appeals.

PRELIMINARY MEETINGS:

MILAGROS BELLBER (05-13)

Mr. and Mrs. Bellber appeared before the board for this proposal.

MR. KANE: Request for 6 ft. side yard setback and 16 ft. total side yard setback for existing balcony at 6 Willow Parkway.

MR. KANE: You need to tell us what you want to do and just speak loudly enough so that young lady over there can hear you.

MRS. BELLBER: Balcony is already existing. When we purchased the home that was one of the features that we really liked on the house. Later we found out that I think it's not up to code because it extends over the property line that the allowance of the property line so we wanted to know how can we go about either do we have to take it down, do we have to rebuild it to code?

MR. KANE: You're in the right place. What's going to happen is you're here for us to decide whether you can keep it or if you have to take it down. And if we do, if the board decides on, we can't do that tonight, everything by law has to be done in a public hearing. What the Town of New Windsor does is that we hold a preliminary meeting so that you can get an idea of what we need and we can see what you want and we work on it. Then we go to the public hearing and there are no surprises. Other towns you walk in cold and if you don't have the right information, you lose. So we like to get a little prelim going. If the board decides to go ahead and let it stay there, you still have to meet whatever requirements the building department gives you as far as that meeting goes.

MRS. BELLBER: Understand.

MR. KANE: How long have you owned the home?

MRS. BELLBER: We just moved in December 30th.

MR. KANE: Do you have any idea how long the balcony has been in existence?

MRS. BELLBER: No idea but it looks like it might be original to the house cause the french doors that are there look like they're very old doors, they're not new.

MR. KANE: Mike, do we have anything in the file about any permits that were asked for this or anything along those lines?

MR. BABCOCK: No, I have a survey here, I don't seem to be able to verify a date, it's been faxed so many times, says 1950 so--

MR. KANE: Okay, I have to ask some specific questions and everything we do now we'll repeat at the public hearing so you know. Some we have to ask because by law we have to ask them. So to your knowledge there were no cutting down any trees or substantial vegetation in the building of this balcony?

MRS. BELLBER: No.

MR. KANE: Create any water hazards or runoffs with the building of the balcony?

MRS. BELLBER: No.

MR. KANE: Any complaints that you know of formally or informally about the balcony?

MRS. BELLBER: No.

MR. KANE: Okay, and obviously if you removed the balcony and you opened the sliding doors it would be a safety issue?

MRS. BELLBER: Definitely.

MR. KANE: Okay. Does anybody else have any questions?

MR. MC DONALD: It's going to be the same size, right?

MRS. BELLBER: No changes.

MR. KANE: Just making it legal.

MR. REIS: Accept a motion?

MR. KANE: Yeah. I'm surprised this day and age and this close, less than a year that the bank didn't catch it, maybe they just didn't look up.

MR. BABCOCK: Yeah, for some reason we wrote a letter December 3, 2004, is that about when you went for the closing?

MRS. BELLBER: December 30th.

MR. BABCOCK: We wrote a letter saying there was no violations, that's why they were able to buy it so apparently we didn't look up either or we just thought because there it says the house was built in 1965 and it says that all this stuff including everything has a date of 1977 with a question mark next to it. So I don't know what that means but they think it might have been built in '77.

MR. KANE: Doesn't matter, we'll clear it up now. Okay, yeah, I'll accept a motion.

MR. REIS: I do have a question. You bought the home just recently and there were no conflicts as far as C.

of O.s were concerned, how did you know that there was a conflict that brought you here?

MRS. BELLBER: Our lawyer at closing said that there might have been because we had the new survey done.

MR. BABCOCK: So they picked it up.

MRS. BELLBER: It didn't show it, they said there might be a question about it and they told me, you know, he might want to, they might give you a variance and he told me what I should do.

MR. BELLBER: So we came here on our own.

MR. KANE: So it doesn't come back to haunt you later on. Normally most banks pick that up.

MR. BELLBER: That's what we did on his advice.

MR. REIS: I make a motion that we set up Milagros Bellber for the requested 6 foot side yard and 16 foot total side yard setback.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: So we have you set up for a public hearing, just follow this right here and at the public hearing we're going to do the same thing we just did.

MRS. BELLBER: Thank you so much. Have a good evening.

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MR. KANE: Any questions, give Myra a call.

ALLEN DANTAS (05-14)

Mr. Allen Dantas appeared before the board for this proposal.

MR. KANE: Request for 24.168 minimum lot area for proposed two-family dwelling on Dean Hill Road.

MR. BABCOCK: Mr. Chairman, just so we can correct it for the record it's 24,604, we changed the numbers, it's not 24,168, it's his variance that he requests is 24,604, just so that the record is straight, Mr. Chairman.

MR. KANE: Tell us what you want to do, sir.

MR. DANTAS: Well, I bought the property over 20 years ago or about 20 years ago and I have been paying taxes and owned that piece of land. I had some plans for it but by the time I acted the zoning has changed and I got caught in a situation that I need for the two-family house there and I'm short on land.

(Whereupon, Mr. Krieger entered the room.)

MR. KANE: With the building of the two family house will you be cutting down any trees or substantial vegetation?

MR. DANTAS: No, the lot is clear.

MR. KANE: Creating any water hazards or runoffs with the building?

MR. DANTAS: No.

MR. KANE: Are there any easements on the property that the home itself will run through?

MR. DANTAS: No.

MR. KANE: Septic and well?

MR. DANTAS: Sewer and water.

MR. KANE: Other two family homes in your neighborhood?

MR. DANTAS: Yes, there are some.

MR. KANE: So with building the two-family home in that neighborhood, it's not going to change the environment?

MR. DANTAS: The character of the neighborhood, no, because some are existing there already.

MR. KANE: Any other questions?

MR. MC DONALD: No. Accept a motion?

MR. KANE: I'll accept a motion.

MR. KANE: Make a motion we set Mr. Allen Dantas up for a public hearing on his request for the 24,604 square feet minimum lot area for the proposed two-family dwelling on Dean Hill Road in an R-3 zone.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. DANTAS: Thank you.

MR. KANE: Just follow the directions on this. Any questions, give Myra a call. Have a good evening.

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MR. DANTAS: Thank you.

DISCUSSION

BOARD NOMINATIONS

MR. KANE: I do have a question for the board cause I'm not a hundred percent sure what to do here. This time of year we actually hold an election for chairman, vice chairman and that kind of stuff. Should we proceed to do that or are we all so new should I just stay here? I don't know how you guys want to handle this.

MR. REIS: Are you happy about your present position?

MR. KRIEGER: You have to have a reorganization so depends, you have to actually have a vote.

MR. KANE: That's what I wanted answered, we need to do that.

MR. KRIEGER: Yes.

MR. KANE: So for the next meeting guys we're going to do a reorganizational, somebody wants to be chairman, vice chairman, you're welcome to do it. I'm not trying to get out of it, this is what we do every year, it doesn't matter every year we have a vote.

MR. KRIEGER: Our good friends at the state require it.

MR. REIS: For the record, are you, would you like to continue?

MR. KANE: I'll continue, I don't care.

MR. REIS: Since we have a very strong quorum, can we do it at this point in time to get it on record?

MR. KRIEGER: I'm sure the chairman will entertain a motion to waive the requirement of prior notice.

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MR. MC DONALD: So moved.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KRIEGER: Now you can proceed.

MR. KANE: Anybody want to make a motion for chairman?

MR. MC DONALD: I nominate Mike.

MR. REIS: Second it.

MR. KRIEGER: Move that nominations be closed first.

MR. MC DONALD: I move the nominations be closed.

MS. GANN: I'll second that motion.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	ABSTAIN

MR. KRIEGER: Now you can go ahead and do it.

MR. KANE: Now we'll take a vote I guess, right? All in favor of keeping me.

MS. GANN: So moved.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	ABSTAIN

MR. KANE: Vice chairman, I nominate Mike Reis.

MR. MC DONALD: Motion we close the nominations.

MR. REIS: Second it.

ROLL CALL

MR. REIS	ABSTAIN
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. MC DONALD: Second the motion to nominate Mike Reis as Vice Chairman.

ROLL CALL

MR. REIS	ABSTAIN
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: I need a nomination to keep Andy as our attorney.

MR. MC DONALD: Motion to close the nominations.

MS. GANN: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. MC DONALD: Second the motion to keep Andy as our attorney.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: Can I have a nomination for Fran as the stenographer of the zoning board? Anybody else?

MR. MC DONALD: Motion to close the nominations.

MS. GANN: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. REIS: I'll second the motion to keep Fran as the stenographer.

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ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS (CONTINUED)

EDUARDO GUERRERO (05-12)

MR. KANE: Request for 5 ft. rear yard setback for proposed in-ground pool at 2818 Cheery Tree Way.

Mr. Eduardo Guerrero and Ms. Connie Turner appeared before the board for this proposal.

MR. KANE: Sir, tell us what you want to do.

MR. GUERRERO: She's my daughter.

MR. KANE: So you want to put a pool in the back yard?

MR. GUERRERO: Yes.

MR. KANE: And you need five more feet?

MR. GUERRERO: Yes.

MR. KANE: They're okay on side and everything, Mike?

MR. BABCOCK: Yes.

MR. KANE: Will you be cutting down any trees or substantial vegetation in the building of the pool?

MS. TURNER: No.

MR. KANE: Creating any water hazards or runoff in the building of the pool?

MS. TURNER: No.

MR. KANE: Pool will be similar in size and nature to other pools in your neighborhood?

MS. TURNER: Yes.

MR. KANE: And the pool, are there any easements running through the area where the pool is?

MS. TURNER: What?

MR. KANE: Any easements?

MS. TURNER: What's that?

MR. KANE: Are you on town water and sewer?

MR. BABCOCK: Yes.

MR. KANE: There's no property rights running through your yard?

MS. TURNER: No.

MR. GUERRERO: No.

MR. KANE: This is actually going to put them five feet off the rear property line, is that correct?

MR. BABCOCK: That's correct.

MR. KANE: I have no further questions. What we do in New Windsor we hold a preliminary hearing so we can get an idea of what you want to do and you can get an idea of what we need and by law, we have to do everything in a public hearing. So what we'll vote on tonight is to set you up for a public hearing after we see if anybody else has any other questions. Then we'll actually go through the same thing again when we do the public hearing and that will be the formal public hearing. Any other questions?

MR. REIS: I'll make a motion that we set up Eduardo Guerrero for his requested variance at 2818 Cherry Tree Way.

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MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

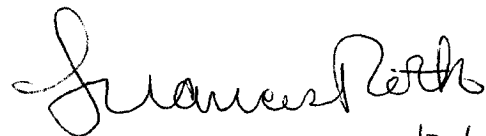
MR. MC DONALD: Motion to adjourn.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. MC DONALD	AYE
MS. LOCEY	AYE
MR. KANE	AYE

Respectfully Submitted By:



Frances Roth
Stenographer

3/31/05